

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 385X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Kalamazoo, Mich.

[Docket No. AB 1246X]

Grand Elk Railroad, L.L.C.—Discontinuance Exemption—in Kalamazoo, Mich.

Norfolk Southern Railway Company (NSR) and Grand Elk Railroad, L.L.C. (GDLK) (collectively, applicants), have jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NSR to abandon, and for GDLK to discontinue service over, an approximately 0.1-mile rail line, between mileposts IJ 44.6 and IJ 44.7, in Kalamazoo, Mich. (the Line). The Line traverses United States Postal Service Zip Codes 49007 and 49001.

Applicants have certified that: (1) no local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line that would have to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on October 13, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by September 23, 2016. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by October 3, 2016, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

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<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to applicant's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 16, 2016. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by September 13, 2017, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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Decided: September 8, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.